88-872 (2)

Supreme Court, U.S.
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JAN 3 1989
JOSEPH F. SPANIOL, JR.
CLERK

NO: 88-1002

in the

Supreme Court

of the

United States

October Term, 1988

EDITH HOROWITZ BROIDA,

Petitioner

vs.

MOIE J. L. TENDRICH

Respondent.

ON

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITIONER'S SUPPLEMENTAL BRIEF

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30 pp

TABLE OF AUTHORITIES Page

Administrative Orders of the Chief Judge of Dade County Florida Circuit and County Courts:

1. Order No. 77-239 3

2. Order No. 80-31 3

3. Order No. 79-1 3

4. Order No. 81-36 3

5. Order No. 86-10 4

SUPPLEMENTAL BRIEF

PETITIONER for Writ of Certiorari files this Supplemental Brief containing reference to with copies in the Appendix of procedural administrative orders of the Chief Judge of the Dade County Circuit and County Court of Florida which have come to her attention since the filing of Petition.

This Brief supports the petition's contention raised in Questions #3 and #7, Statement of Facts, pp 14,15,16,17, The Rulings Below, pp 26,27,29,30.

They concern the failure of Defendant Judge to have jurisdiction over three properly filed General Jurisdiction Division cases having only general jurisdiction subject matter which he caused to be transferred to him to take control and prohibit them from proceeding, which he has done for three years. (See, Petition, p14) and (pp 13,14,15,16,17 Petition).

The Administrative Orders in the

Appendix herein clearly demonstrate that the Defendant, represented by a Dade County Assistant attorney, is totally incorrect in his position before the District Court and the appeal court that a Dade County Circuit judge can choose to sit on any circuit court case without being assigned to the case by the Chief Judge or to the division that has subject matter jurisdiction.

The Orders in the Appendix demonstrate that the 60 or more Dade County Circuit judges, of an area comprising more than one million population, are assigned to subject matter divisions established by the Chief Judge in accordance with the mandates of the Supreme Court of Florida.

In addition judges are either permanently assigned or temporarily assign- to a subject matter division, and cannot hear another division's case except by special assignment by the Chief Judge.

ADMINISTRATIVE ORDERS OF THE CHIEF JUDGE

1. Order No. 77-239-App.1a specifically orders that judges are rotated by the Chief Judge from one division to another, and cannot continue to hear any case previously before them except for those matters specified: motion for re - hearing or new trial, vacate final judgments, completion of trial, sentancing after trial.

2. Order No. 80-31-App4a assigns a Circuit court judge to hear a county court case (lower jurisdiction).

3. Order No. 79-1-App8a states:

> "Urgent matters cognizable only in the General Jurisdiction Division, that arise after five o'clock p.m. daily, or on weekends, may be presented to the Emergency judge of the General Jurisdiction Division whose name is listed in the Miami Review and Daily Record and who serves on assignments for one week on order of the Administrative Judge of such division."
> (underlining added)

4. Order No. 81-36-App10a,

of April 28, 1981 reassigns Defendant Judge herein from Criminal Division of the Cir- to the General Jurisdiction Division and Family Civil Department of the Family Div. of the Circuit Court. See last line of paragraph which states that"Judge Tendrich will hear those cases assigned to Section CA/FC 12"(the new section he is assigned)

As to Petition's Question 2,p iia:

The Complaint in District Court alleges a prior agreement with a prior probate judge of petitioner's estate for Defendant's transfer to probate division on the retirement in the upcoming Jan, 1988 by mandatory statute for age, of a probate judge if he takes the estate case assigned to him in General Jurisdiction May, 1985. App 12a.

1. Order No. 86-10 reassigns Defendant Judge from General Jurisdiction Division to Probate Division on January 16, 1986. App 12a.

CONCLUSION

Dade County,Florida circuit court judges do not decide which cases they will take unto themselves. They must have subject matter jurisdiction and be assigned. All cases are blind-filed assigned into appropriate subject matter divisions.

CERTIFICATE OF SERVICE

It is hereby certified three true and correct copies of this Supplemental Brief were furnished by United States mail this 31 day of December, 1988 to Roy Wood, Esq., Ass't County Attorney, 111 N. W. First St., Miami, Fl, 33128.

Respectfully submitted,

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APPENDIX

ADMINISTRATIVE ORDERS: Page

1. Order No. 77-239 . . . . . 1a

2. Order No. 80-31 . . . . . 4a

3. Order No. 79-1 . . . . . 8a

4. Order No. 81-36 . . . . . 10a

5. Order No. 86-10 . . . . . 12a

THE ELEVENTH JUDICIAL CIRCUIT
DADE COUNTY, FLORIDA

CASE NO. 77-1
(Court Administration)

IN RE: ESTABLISHMENT OF TRANSFER GUIDELINES WHEN JUDGES ARE ROTATED

ADMINISTRATIVE ORDER
NO. 77-239

WHEREAS, it is necessary to establish uniform standards relating to the reassignment of cases and the transfer of furnishings and equipment when judges are rotated from one division to another; and

WHEREAS, it is my desire to maintain flexibility in matters affecting the rotation of judges;

THEREFORE, pursuant to the authority vested in me as Chief Judge, the following transfer guidelines are hereby established when rotation of judges is required

1. No case shall be retained or heard by a judge when a judge is transferred to another division, except for

the following purposes:

(a) Motions for rehearing or new trial;

(b) Motions to vacate final judgments, including summary final judgments;

(c) Completion of hearing or trial after judge has commenced taking testimony in case;

(d) Sentencing in cases tried.

2. Upon receipt of the transfer order, the moving time will be arranged and set by the Court Administrator's office after determination of availability of county personnel and transportation.

3. No furniture will be moved.

4. Each judge will assume the existing telephone numbers in the new location.

5. Each office will contain an adequate library, therefore, no books will be moved from one location to another.

6. The only items to be moved are the secretary's typewriter and office supplies.

7. Any exceptions to the foregoing shall be considered by the Chief Judge.

DONE AND ORDERED in Chambers at Miami, Dade County, Florida, this 19 day of October, 1977.

EDWARD D. COWART, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF
FLORIDA

(Recorded Oct 20,1977 Richard P Brinker
Clerk)

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY, FLORIDA

CASE NO. 80-2
(Court Administration)

IN RE: ASSIGNMENT OF CIRCUIT COURT JUDGE TO TEMPORARILY SERVE AS ACTING COUNTY COURT JUDGE OF THE COUNTY COURT, DADE COUNTY, FLORIDA

ADMINISTRATIVE ORDER
NO. 80-31

WHEREAS, the Florida Supreme Court, pursuant to Rule 2.050 of the Florida Rules of Judicial Administration, requires the Chief Judge of each Circuit to develop an administrative plan which shall include an administrative organization for the assignment of judges and other court officers; and

WHEREAS, the Florida Supreme Court required that such plan for assignment of judges shall be compatible with the development of the capabilities of the judges in such a manner that each judge will be qualified to serve in any divi-

sion, thereby creating a judicial pool from which judges may be assigned to various courts throughout the State; and

WHEREAS, Rule 2.050 of the Florida Rules of Judicial Administration authorizes the Chief Judge to assign any judge to temporary service in any court in the same circuit for which the judge is qualified; and

WHEREAS, it will be helpful to an orderly and proper disposition of cases now being heard and tried by the County Court of Dade County if said Circuit Judge is designated and appointed as Acting County Court Judge for a period of time to more effectively and efficiently handle and dispose of those cases regularly coming before him as Acting County Court Judge;

NOW, THEREFORE, I, EDWARD D. COWART, pursuant to the authority vested in me as Chief Judge of the

Eleventh Judicial Circuit of Florida, do hereby assign and designate the HONORABLE C.P. DICK LANTZ, Judge of the Circuit Court, Eleventh Judicial Circuit of Florida as acting County Court Judge, Dade County for the purpose of handling, determining and completing the Case No.77-8626 CC-5, RICHARD THOMAS, JR., as Plaintiff, vs. PATENT INSURANCE AGENCY, INC. as Defendant, on a date to be set as expeditiously as possible.

The above named Judge will also continue to serve as Circuit Court Judge of the Eleventh Judicial Circuit of Florida and accept assignments in that Court as directed by the Administrative Judge of the Circuit Court, Criminal Division.

The above named Judge, under and by virtue of the authority hereof, is hereby vested with all and singular the powers and prerogatives conferred by the Constitution and Laws of the State of

of Florida upon Judges of the Circuit and County Courts to which they are hereby assigned.

DONE AND ORDERED in Chambers at Miami, Dade County, Florida this 17th day of March, 1980.

EDWARD D. COWART, CHIEF JUDGE
ELEVENTH JURIDICAL CIRCUIT OF FLORIDA

(Recorded Mar 19, 1980 Richard P. Brinker Clerk)

THE ELEVENTH JUDICIAL CIRCUIT
DADE COUNTY, FLORIDA

CASE NO. 79-1
(Court Administration)

IN RE: EMERGENCY ASSIGNMENT OF)
CASES IN THE GENERAL JURISDICTION)
DIVISION OF THE CIRCUIT COURT)

ADMINISTRATIVE ORDER
NO. 79-1

PURSUANT TO the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, the following procedures shall be adhered to in the emergency assignment of cases in the General Jurisdiction Division of the Circuit Court:

1. Urgent matters, cognizable only in the General Jurisdiction Division, that arise after five o'clock p.m. daily, or on weekends, may be presented to the Emergency Judge of the General Jurisdiction Division Whose name is listed in the Miami Review and the Daily Record and who serves on assignments for one week on order of the

Administrative Judge of such Division.

2. Emergency assignment commences at eight o'clock a.m. Monday until eight o'clock a.m. the following Monday, regardless of Monday holidays.

DONE AND ORDERED in Chambers at Miami, Dade County, Florida, this 2nd day of January, 1979.

EDWARD D. COWART, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA

(Recorded Jan 4,1979 Richard P. Brinker Clerk)

The Eleventh Judicial Circuit
Dade County, Florida

CASE NO. 81-2
(Court Administration)

IN RE: ASSIGNMENT OF CIRCUIT COURT JUDGE FROM THE CRIMINAL DIVISION OF THE CIRCUIT COURT TO THE GENERAL JURISDICTION DIVISION AND FAMILY CIVIL DEPARTMENT OF THE FAMILY DIVISION OF THE CIRCUIT COURT

ADMINISTRATIVE ORDER
NO. 81-36

PURSUANT TO the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, the Honorable MOIE J. L. TENDRICH is hereby reassigned from the Criminal Division of the Circuit Court to the General Jurisdiction Division and Family Civil Department of the Family Division of the Circuit Court, effective June 1, 1981. Judge Tendrich will hear those cases assigned to Section CA/FC 12.

Judge Tendrich will occupy Chambers 1104 of the Dade County Courthouse.

DONE AND ORDERED in Chambers at Miami, Dade County, Florida, this 28 day April, 1981.

GERALD T. WETHERINGTON, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA

RECORDED April 29, 1981
RICHARD P. BRINKER CLERK

THE ELEVENTH JUDICIAL CIRCUIT
DADE COUNTY, FLORIDA

Case No. 86-2
(Court Administration)

IN RE: REASSIGNMENT OF CIRCUIT JUDGE OF THE ELEVENTH JUDICIAL CIRCUIT

ADMINISTRATIVE ORDER
NO. 86-10

PURSUANT to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, Circuit Judge MOIE J. L. TENDRICH is reassigned from the GENERAL JURISDICTION DIVISION and FAMILY CIVIL DEPARTMENT of the FAMILY DIVISION to SEC. CP 02 of the PROBATE DIVISION of the Circuit Court, effective February 3, 1986.

Chambers will be assigned by the Administrative Judge of the Probate Division.

DONE AND ORDERED in Chambers at Miami, Dade County, Florida, this 16th day of January, 1986.

GERALD T. WETHERINGTON, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
(RECORDED Jan 22,1986 RICHARD P. BRINKER)